

It is expressly provided by statute⁽¹⁸⁾ that certified copies of the Journal record of the oath of office personally subscribed by Members are admissible in evidence in any court of the United States as conclusive proof of the fact that the signer duly took the oath of office in accordance with law.⁽¹⁹⁾

§ 10. Entry of Particular Proceedings

The Constitution provides for the keeping and publication of the Journal,⁽²⁰⁾ and expressly requires the recording of certain matters therein. Pursuant to its provisions, veto messages of the President accompanying bills disapproved and returned by him to the House must be entered on the Journal.⁽¹⁾ The Constitution also specifies the circumstances under which the yeas and nays are to be entered on the Journal.⁽²⁾ And, because yea and nay votes are thus always made a part of the Journal, a motion or request to that effect is not necessary.⁽³⁾

18. 2 USC § 25.

19. Generally, as to taking the oath, see Ch. 2, *supra*.

20. See § 8, *supra*.

1. U.S. Const. art I, § 7.

2. See U.S. Const. art I, §§ 5, 7.

3. See § 10.4, *infra*.

The specific content of the Journal is also governed to some extent by legislative enactment.⁽⁴⁾ For example, a statute requires that the electoral vote be entered on the Journal⁽⁵⁾ together with a list of the votes by state in alphabetical order.

Governing the content of the Journal to a far greater extent than the relatively few constitutional and statutory provisions are the rules and practice of the House itself. In this regard, it should be noted that while the Constitution requires that certain matters be recorded in the Journal, it does not specify the particular mode in which, or indicate with what fullness, the Journal is to record those proceedings of the House relating to matters not expressly required by it to be entered therein; consequently the procedures to be followed with respect to such matters are left to the discretion of the House.⁽⁶⁾ Thus, the House controls its Jour-

4. See, for example, 2 USC § 25, requiring each Member who takes the oath of office to deliver a signed copy thereof to the Clerk for recordation in the *Congressional Record* and in the Journal.

As to the admissibility in evidence of certified copies of the Journal entry, see § 9, *supra*.

5. 3 USC § 17.

6. *Field v Clark*, 143 U.S. 670 (1892).

nal, even to the extent of omitting things actually done or recording things not done.⁽⁷⁾ For example, because the Journal reflects only actions actually taken in the House, a request for unanimous consent which meets with objection is not made part of the Journal.⁽⁸⁾ And, in the exercise of that discretion afforded it by the Constitution with respect to the Journal, the House has by its rules expressly provided for the entry therein of such diverse matters as questions of order and the decisions thereon,⁽⁹⁾ the designation of a Clerk pro tempore,⁽¹⁰⁾ the titles or subject of reports of committees delivered to the Clerk for printing and reference to the proper calendar under the direction of the Speaker,⁽¹¹⁾ the hour of adjournment,⁽¹²⁾ and messages from the Senate and the President giving notice of bills passed or approved.⁽¹³⁾

Petitions, memorials and bills of a private nature, together with

the names of the Members presenting them, are entered in the Journal,⁽¹⁴⁾ as are all public bills, memorials, resolutions and other documents referred under the rules.⁽¹⁵⁾ Additionally, when a bill, resolution or memorial is introduced "by request", these words must also be entered upon the Journal,⁽¹⁶⁾ and although not expressly required to do so by its rules, the House follows an identical practice with respect to petitions so introduced.⁽¹⁷⁾

Every motion made to the House and entertained by the Speaker, likewise must be entered on the Journal with the name of the Member making it, unless it is withdrawn the same day.⁽¹⁸⁾ A motion to discharge a committee, however, is entered on the Journal only when signed by a majority of the total membership of the House.⁽¹⁹⁾

7. 4 Hinds' Precedents § 2784.
8. See § 10.2, *infra*.
9. Rule III clause 3, *House Rules and Manual* § 641 (1973).
10. Rule III clause 4, *House Rules and Manual* § 647 (1973).
11. Rule XIII clause 2, *House Rules and Manual* § 743 (1973).
12. Rule XVI clause 5, *House Rules and Manual* § 790 (1973).
13. Rule XXXIX, *House Rules and Manual* § 935 (1973).

14. Rule XXII clause 1, *House Rules and Manual* § 849 (1973).
15. Rule XXII clause 4, *House Rules and Manual* § 854 (1973).
16. Rule XXII clause 6, *House Rules and Manual* § 860 (1973), also requiring that the quoted words be printed in the Record.
17. See § 10.7, *infra*.
18. Rule XVI clause 1, *House Rules and Manual* § 775 (1973), providing further that any such motion must be reduced to writing on the demand of any Member.
19. Rule XXVII clause 4, *House Rules and Manual* § 908 (1973), further

Jefferson's Manual states that conference reports are to be entered in the Journal,⁽²⁰⁾ but notes that where amendments are made to a question they are not to be printed in the Journal separated from the question, and that the Journal records only the question as finally agreed to by the House.⁽¹⁾

The Journal also should record the result of every vote and state its subject in general terms.⁽²⁾ In this regard, the rules provide that when a recorded vote is taken the names of those voting on each side of the question and the names of those not voting are to be entered in the Journal.⁽³⁾

The names of those Members counted to establish a quorum of record, but not voting on a roll call, are also reported on the Journal.⁽⁴⁾ And when, in the absence of a quorum, a call of the House in the old form is conducted, Mem-

bers voluntarily appearing report their names to the Clerk to be entered upon the Journal as present.⁽⁵⁾

On the other hand, when a call of the House in the absence of a quorum is ordered, those Members who fail to respond are recorded as absent in the Journal,⁽⁶⁾ as are those Members reported as absentees during a call of the roll ordered upon the failure of a quorum in the Committee of the Whole.⁽⁷⁾

Similarly, whenever electronic voting equipment is used in recording any roll call or quorum call, a list of the names of those Members recorded as voting in the affirmative, of those recorded as voting in the negative, and of those voting "present", as the case may be, is to be entered in alphabetical order in each category in the Journal as if their names had been called in the manner otherwise provided for under the provisions of the applicable rule.⁽⁸⁾

providing that a signature may be withdrawn by a Member in writing at any time before the motion is entered on the Journal.

20. *House Rules and Manual*, §542 (1973).

1. *House Rules and Manual* §580 (1973).

2. 4 Hinds' Precedents §2804.

3. Rule I clause 5, *House Rules and Manual* §630 (1973).

4. Rule XV clause 3, *House Rules and Manual* §772 (1973).

5. Rule XV clause 2(a), *House Rules and Manual* §768 (1973).

6. Rule XV clause 2(b), *House Rules and Manual* §771b (1973).

7. Rule XXIII clause 2, §863, and Rule XV clause 2(b), §771b, *House Rules and Manual* (1973).

8. Rule XV clause 5, *House Rules and Manual* §774b (1973).

Entry of Proceedings, Special Orders, and Unanimous-Consent Requests

§ 10.1 The Journal reflects the proceedings of the day.

On Oct. 8, 1968,⁽⁹⁾ a Member propounded a parliamentary inquiry as to whether due diligence was being paid to the proceedings of that day with regard to what the Journal and the *Congressional Record* would show on the next day. The Speaker pro tempore⁽¹⁰⁾ stated that the Journal and the Record would reflect the proceedings of the day.

§ 10.2 The Journal reflects only the actions that are taken in the House and therefore, where a unanimous-consent request is objected to, such matter is not made part of the Journal.

On Feb. 15, 1950,⁽¹¹⁾ a Member interrupted the reading of the previous day's Journal to make the point of order that the Journal was incorrect because it noted neither his unanimous-consent request that the House adjourn until a day certain nor the objec-

tion of another Member thereto. The Speaker,⁽¹²⁾ pointing out that the Clerk was reading the Journal and not the Record, overruled the point of order and declared that the Journal reflects only the actions that are taken.

§ 10.3 The Journal does not include the texts of special orders because they do not constitute business.

On Sept. 13, 1965,⁽¹³⁾ a Member rising to a parliamentary inquiry interrupted the reading of the Journal for Sept. 9 to ask whether it included any part of certain special orders. In response, the Speaker⁽¹⁴⁾ stated that the Journal did not include special orders because the same were not business.

Recording Yeas and Nays

§ 10.4 Yea and nay votes are always made a part of the Journal and a motion or request to that effect is not necessary.

On Feb. 21, 1950,⁽¹⁵⁾ in response to a Member who requested that the yea and nay votes just re-

9. 114 CONG. REC. 3097, 90th Cong. 2d Sess.

10. Wilbur D. Mills (Ark.).

11. 96 CONG. REC. 1805, 81st Cong. 2d Sess.

12. Sam Rayburn (Tex.).

13. 111 CONG. REC. 23600, 89th Cong. 1st Sess.

14. John W. McCormack (Mass.).

15. 96 CONG. REC. 2094, 81st Cong. 2d Sess.

corded be made a part of that day's Journal, the Speaker⁽¹⁶⁾ stated it to be his understanding that yea and nay votes are always made a part of the Journal.

Recording Electoral Votes

§ 10.5 After the dissolution of a joint session of Congress called for the purpose of counting the electoral vote, the Speaker calls the House to order and directs that the electoral vote be spread at large upon the Journal.

On Jan. 6, 1969,⁽¹⁷⁾ after the President pro tempore of the Senate⁽¹⁸⁾ had declared dissolved the joint session of Congress, called pursuant to a Senate concurrent resolution⁽¹⁾ for the purpose of counting the electoral vote, the House was called to order by the Speaker⁽²⁾ who then directed that the electoral vote be spread at large upon the Journal.

§ 10.6 The names of those Members of Congress whose signatures on an objection to the electoral count are in ex-

cess of the minimum number prescribed by statute⁽³⁾ may be entered on the Journal by unanimous consent.

On Jan. 6, 1969,⁽⁴⁾ after the joint session of the two Houses of Congress called to count the electoral vote was dissolved, the Speaker,⁽⁵⁾ having called the House to order and directed that the electoral vote be spread at large upon the Journal, announced that there were additional signatures of Members of the House and Senate on the objection raised to the electoral vote of North Carolina, and that without objection such signatures would appear in the Journal and in the Record. There was no objection.

Entry of Bills, Petitions, and Resolutions

§ 10.7 When a petition filed with the Clerk under Rule XXII clause 1 is introduced "by request," these words are entered on the Journal and printed in the Record fol-

16. Sam Rayburn (Tex.).

17. 115 CONG. REC. 172, 91st Cong. 1st Sess.

18. Richard B. Russell, Jr. (Ga.).

1. S. Con. Res. 1, 91st Cong. 1st Sess. (1969).

2. John W. McCormack (Mass.).

3. 3 USC §15, providing, inter alia, that such objection must be in writing and signed by at least one Senator and one Member of the House of Representatives.

4. 115 CONG. REC. 172, 91st Cong. 1st Sess.

5. John W. McCormack (Mass.).

lowing the name of the Member.

The presentation and reference under Rule XXII⁽⁶⁾ of a petition introduced “by request” on Apr. 13, 1961, was duly recorded in both the Journal⁽⁷⁾ and the *Congressional Record*⁽⁸⁾ for that date with the words “by request” noted parenthetically immediately following the name of the Member introducing the petition.

§ 10.8 The printing of the text of a bill in the Journal may be dispensed with by unanimous consent.

On Apr. 26, 1965⁽⁹⁾ after the passage of a bill⁽¹⁰⁾ providing for the codification of the general and permanent laws relating to decedents’ estates and fiduciary relations in the District of Columbia, a Member asked unanimous consent that the printing of the bill in the Journal and in the *Congressional Record* be dispensed with because of the cost involved. There was no response to the Speaker’s⁽¹¹⁾ call for objections.

6. Clauses 1 and 6, *House Rules and Manual* (1973).

7. H. JOUR. 424, 87th Cong. 1st Sess.

8. 107 CONG. REC. 5900, 87th Cong. 1st Sess.

9. 111 CONG. REC. 8375, 89th Cong. 1st Sess.

10. H.R. 4465, 89th Cong. 1st Sess. (1965).

11. John W. McCormack (Mass.).

§ 10.9 When a resolution has been adopted providing for the consideration of a bill by the Committee of the Whole House on the state of the Union, and the bill is then called up and considered by unanimous consent in the House as in the Committee of the Whole, the Journal indicates the discharge of the Committee of the Whole House on the state of the Union from the further consideration of such bill.

On June 28, 1966,⁽¹²⁾ after the adoption of a resolution⁽¹³⁾ providing for the consideration of a certain bill⁽¹⁴⁾ in the Committee of the Whole House on the state of the Union under an open rule with one hour of general debate, a Member, by direction of the cognizant Committee, called up the bill and at his request was granted unanimous consent that it be considered in the House as in the Committee of the Whole. The Journal for that day⁽¹⁵⁾ indicated the discharge of the Committee of

12. 112 CONG. REC. 14547, 89th Cong. 2d Sess.

13. H. RES. 895, 89th Cong. 2d Sess. (1966).

14. H.R. 5256, 89th Cong. 2d Sess. (1966).

15. H. JOUR. 650, 89th Cong. 2d Sess. (1966).

the Whole in the following language: "On motion of Mr. Hébert by unanimous consent, the Committee of the Whole House on the state of the Union was discharged from further consideration of the bill H.R. 5256. . . ."

Corrections of the Congressional Record

§ 10.10 When remarks and extraneous matter inserted in the Congressional Record by a Member are, by unanimous consent, ordered expunged from the permanent edition thereof, the Journal records such fact.

The Journal of June 5, 1962,⁽¹⁶⁾ records the fact that at the request of a Member his remarks and certain extraneous material appearing in the *Congressional Record* for a particular date were by unanimous consent ordered expunged from the permanent Record.

§ 11. Reading the Journal

Prior to the 92d Congress, during which the present form of the applicable House rule⁽¹⁷⁾ was

16. H. JOUR. 372, 87th Cong. 2d Sess.

17. Rule I clause 1, *House Rules and Manual* §621 (1973), the present

adopted, the reading of the Journal of each legislative day was mandatory under the rule as then in force, and could be dispensed with only by unanimous consent⁽¹⁸⁾ or by suspension of the rules.⁽¹⁹⁾

Under the modern practice, however, the Speaker, after examining the Journal, is authorized on the appearance of a quorum to announce his approval thereof, in which case the Journal is to be considered as read, unless its reading is ordered either by the Speaker himself or by the House. In the latter regard, it is in order to offer one motion that the Journal be read, which motion is of the highest privilege and must be determined without debate.⁽²⁰⁾ In either event, however, the Journal may not be ordered read, or approved, in the absence of a quorum,⁽¹⁾ and when a point of order as to the absence of a quorum is made prior to the reading of the Journal, the presence of a quorum is therefore ascertained before the reading is begun.⁽²⁾

form of which is derived from §127 of the Legislative Reorganization Act of 1970 (84 Stat. 1140).

18. 6 Cannon's Precedents §625.

19. 4 Hinds' Precedents §§2747-2750.

20. Rule I clause 1, *House Rules and Manual* §621 (1973).

1. 4 Hinds Precedents §§2732, 2733; 6 Cannon's Precedents §629.

2. See §12.6, *infra*.